



VA Defining
HEALTH CARE **EXCELLENCE**
in the 21st Century

DEPARTMENT OF VETERANS AFFAIRS
LOUIS STOKES CLEVELAND
DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER
10701 EAST BOULEVARD
CLEVELAND, OH 44106

November 17, 2014

In Reply Refer To: 541/053

Ms. Annette Ryan
1393 Monroe Falls Avenue
Cuyahoga Falls, OH 44221

SUBJECT: Decision – Removal

1. In conjunction with the notice of proposed removal you received on October 29, 2014, a decision has been made to remove you from employment with the Louis Stokes Department of Veterans Affairs Medical Center, effective Friday, December 5, 2014, based on the following reasons:

The reasons as stated in paragraph one (1), charges I through III of the notice of proposed removal are sustained.

2. In reaching this decision, I considered the fact that you made neither an oral nor written reply, along with all the evidence developed in your case. Furthermore, I have considered other factors including the nature and seriousness of the offenses with which you have been charged, the relation of the offenses to your job duties, whether or not the offenses were intentional or inadvertent, or whether or not the offenses were committed for gain, with malice, or repeatedly; your job level and type of employment; your past disciplinary record; your work record, such as length of service, quality of performance, and dependability; the effect of the offenses upon both your ability to continuing performing at a satisfactory level and your supervisor's confidence in you after the offenses were committed; the consistency of the penalty with those imposed upon other employees for the same or similar offenses and the Agency's Table of Penalties; the notoriety of the offense and the impact on the reputation of the Agency; the clarity with which you were notified of the rules violated in committing the offense, including warnings about the conduct; your potential for rehabilitation; the existence of any mitigating circumstances surrounding the commission of the offense; and the adequacy and effectiveness of alternative sanctions to deter such conduct in the future. Consequently, I have concluded that the charges against you are of such gravity that mitigation of the proposed penalty is not warranted, and that the penalty of removal is both appropriate and within the range of reasonableness.

3. You are entitled to: a) appeal this action to the Merit Systems Protection Board (MSPB) or, b) seek corrective action before the U.S. Office of Special Counsel (OSC) or, c) file a grievance under the negotiated grievance procedure or, d) file a discrimination complaint with the Office of Resolution Management (ORM). You shall be deemed to have exercised your option to appeal the adverse action at such time as you timely initiate action to appeal to the Board, or the OSC, or timely file a grievance in writing under the negotiated grievance procedure, or a discrimination complaint. If your appeal includes an allegation that the facility engaged in a prohibited personnel action in retaliation for protected whistleblowing, you may

Ryan Removal-001078

Page 2
Decision- Removal
Annette Ryan

elect to file an appeal to MSPB, OSC, or a negotiated grievance and your election is based on which election you file first.

4. If you appeal to the MSPB, your appeal may be submitted by mail, facsimile, by commercial overnight delivery, by electronic filing at <https://e-appeal.mspb.gov/>, or in person at any time after you receive this letter, but not later than 30 calendar days after the separation has been effected, or 30 calendar days after the date of the your receipt of this decision, whichever is later. The address to mail your appeal is: Merit Systems Protection Board, Chicago Regional Office, 230 S. Dearborn Street, 31st floor, Chicago, Illinois, 60604. The facsimile number is (312) 886-4231. You must submit an original and one copy of both your appeal and all attachments. If you do not submit an appeal within the time set by statute, regulation, or order of a judge, it will be dismissed as untimely filed unless a good reason for the delay is shown. The judge will provide you an opportunity to show why the appeal should not be dismissed as untimely. A copy of the form is available by request if you are unable to access it at the MSPB Website. Please refer to www.mspb.gov for information regarding the appeals process and procedures that must be followed. You may be represented by an attorney or other representative of your choice. If you decide to file an appeal with MSPB, you should notify the Board that the Agency's point of contact for this appeal is: Mr. Daniel Robinson, Employee/Labor Relations Specialist, Department of Veterans Affairs, 10701 East Boulevard, Cleveland, Ohio 44106.

5. If you elect to seek corrective action by the Office of Special Counsel's (OSC) Complaints Examining Unit (www.osc.gov/oscefile), your appeal will be limited to a determination as to whether the agency took one or more covered personnel actions against you in retaliation for making one or more protected whistleblowing disclosures, which constitutes a prohibited personnel practice in accordance with 5 USC 2302(b). If OSC dismisses your claim, you may file an individual right of action (IRA) appeal to MSPB but MSPB will only adjudicate whether you proved that your protected disclosure was a contributing factor in the effected adverse action.

6. If you elect to file a grievance through the negotiated grievance procedures, your written grievance must be submitted within thirty (30) calendar days of the date you receive this letter, in accordance with the provisions of the labor agreement between the Department of Veterans Affairs and The American Federation of Government Employees (AFGE). If you elect to file a grievance under the negotiated grievance procedure, you will be entitled to union representation as provided for in the negotiated agreement. Additionally, if you believe you have been subjected to discrimination within the meaning of 5 U.S.C. 2302(b)(1), you have the right to file a request for the MSPB to review the arbitrator's decision within 35 days after the date of issuance of the decision, or, if you show that you received the decision more than 5 days after the date of issuance, within 30 days after the date you received the decision. If you do not raise the issue of discrimination in the negotiated grievance procedures and subsequently request that MSPB review the arbitration's decision regarding your grievance, MSPB will not allow the issue of discrimination to be raised. The request for review must be filed with the Clerk of the Board, Merit Systems Protection Board, 1615 M Street, Washington, DC 20419, and must contain the following: a). A statement of the grounds on which review is requested; b). References to evidence of record or rulings related to the issues before the

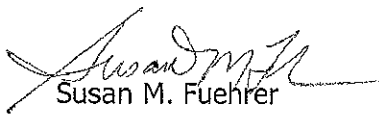
Page 3
Decision- Removal
Annette Ryan

Board; c). Arguments in support of the stated grounds that refer specifically to relevant documents and that include relevant citations of authority; and d). Legible copies of the final grievance or arbitration decision, the agency decision to take the action, and other relevant documents. The documents may include a transcript or recording of the hearing.

7. If you believe this action is based on discrimination on the basis of race, color, religion, sex, national origin, age or handicap, you may file a complaint of discrimination or raise the issue of discrimination in any appeal to MSPB or in a grievance under the negotiated grievance procedure as described above, when the negotiated grievance procedure allows a complaint of discrimination to be raised in connection with a grievance. If you do not raise the issue of discrimination in the negotiated grievance procedures and subsequently request that MSPB review the arbitration's decision regarding your grievance, MSPB will not allow the issue of discrimination to be raised. If you elect to file a complaint of discrimination, you may do so by contacting the Office of Resolution Management (ORM) at 1-888-737-3361. Your complaint will be processed in accordance with Equal Employment Opportunity Commission (EEOC) regulations at 29 C.F.R., Part 1614. Your initial contact with the ORM office must be done within 45 calendar days of the effective date of this action.

8. Whichever is filed first, an appeal to the MSPB, an appeal for corrective action to OSC, a grievance under the negotiated grievance procedure, or a discrimination complaint, shall be considered an election by you to proceed under that appeal process.

9. For further information about the appeal procedure, you may consult with Mr. Daniel Robinson, Employee/Labor Relations Specialist, Human Resources Management Service, at (216) 791-2300, extension 2169.


Susan M. Fuehrer
Medical Center Director

I certify receipt of the original and two (2) copies of this letter.

Annette Ryan

Date